

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC 2002-000501

04/01/2003

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
P. M. Espinoza
Deputy

FILED: _____

STATE OF ARIZONA

F TYLER RICH

v.

RAYMOND A BEAM

MICHAEL M RICARD

PHX CITY MUNICIPAL COURT
REMAND DESK CR-CCC

MINUTE ENTRY

PHOENIX CITY COURT

Cit. No. #8980237

Charge: SEXUAL CONDUCT

DOB: 12/09/46

DOC: 03/06/02

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the Phoenix City Court, and the Memoranda submitted by Appellant.

The only issue raised by Appellant concerns the trial judge's denial of Appellant's Motion for Judgment of Acquittal pursuant to Rule 20, Arizona Rules of Criminal Procedure. A judgment of acquittal is required when there is no "substantial evidence to warrant a

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conviction.”¹ When reviewing the sufficiency of the evidence, an appellate court must not reweigh the evidence to determine if it would reach the same conclusion as the original trier of fact.² Evidence should be viewed in a light most favorable to sustaining a conviction and all reasonable inferences will be resolved against the Defendant.³ If there are conflicts in favor of sustaining the verdict and against the Defendant.⁴ The Arizona Supreme Court has explained in State v. Tison⁵ that “substantial evidence” means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.⁶

In this case there was substantial evidence from which a “rational trier of fact” could conclude that Appellant committed the crime of Sexual Contact, in violation of A.R.S. Section 13-1403(A), a class 1 misdemeanor. Though evidence clearly established that the Phoenix Police Officer lied and misrepresented himself to Appellant, substantial evidence exists that Appellant was reckless about whether the officer (as the “other person” within the meaning of the statute) would be offended or alarmed by his sexual act. This was clearly an issue for the jury to determine. This Court concludes that the trial judge did not err in denying Appellant’s Motion for Judgment of Acquittal.

IT IS THEREFORE ORDERED affirming the judgment of guilt and sentence imposed by the Phoenix City Court.

IT IS FURTHER ORDERED remanding this matter back to the Phoenix City Court for all further and future proceedings in this case.

¹ State v. Doss, 192 Ariz. 408, 966 P.2d 1012 (App. 1998).

² State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Mincey, 141 Ariz. 425, 687 P.2d 1180, cert.denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); State v. Brown, 125 Ariz. 160, 608 P.2d 299 (1980).

³ State v. Guerra, supra; State v. Tison, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d (1982).

⁴ In Re: Estate of Shumway, 197 Ariz. 57, 3 P.3d 977, review granted in part, opinion vacated in part 9 P.3d 1062; Ryder v. Leach, 3 Ariz. 129, 77 P.490 (1889).

⁵ Supra.

⁶ Id. At 553, 633 P.2d at 362.

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/S/ HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT